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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,184	10/09/2003	Lec A. Core	106586-170	7324

23483 7590 04/05/2007  
WILMER CUTLER PICKERING HALE AND DORR LLP  
60 STATE STREET  
BOSTON, MA 02109

EXAMINER
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DESANTO, MATTHEW F

ART UNIT	PAPER NUMBER
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3763

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	04/05/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/05/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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michael.mathewson@wilmerhale.com

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/682,184	CORE, LEE A.	
	Examiner	Art Unit	
	Matthew F. DeSanto	3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Allowable Subject Matter***

1. The indicated allowability of claims 1-8 are withdrawn in view of the newly discovered reference(s). Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3, 4, 5, 6, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Weinstein (USPN 4,626,245).

Weinstein discloses a gland for use in a hemostasis valve assembly comprising; a self-sealing, one piece gland having an inwardly facing surface, an outwardly facing surface located proximally from said inwardly facing surface, a first slit formed in said inwardly facing surface extending in a longitudinal direction toward but terminating before said outwardly facing surface, a second slit formed in said outwardly facing surface extending in said longitudinal direction toward but terminating before said inwardly facing surface in a plane offset from said first

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slit, and a third slit formed in a plane substantially parallel to at least one of said inwardly facing and outwardly facing surfaces extending laterally to connect said first slit with said second slit (Figure 4A, 4B and entire reference).

4. Claims 1, 2, 3, 4, 5, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Aboul-Hosn et al. (USPN 6,086,570).

Aboul-Hosn et al. discloses a gland for use in a hemostasis valve assembly comprising; a self-sealing, one piece gland having an inwardly facing surface, an outwardly facing surface located proximally from said inwardly facing surface, a first slit formed in said inwardly facing surface extending in a longitudinal direction toward but terminating before said outwardly facing surface, a second slit formed in said outwardly facing surface extending in said longitudinal direction toward but terminating before said inwardly facing surface in a plane offset from said first slit, and a third slit formed in a plane substantially parallel to at least one of said inwardly facing and outwardly facing surfaces extending laterally to connect said first slit with said second slit (Figures 1, 5, 6 and entire reference).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aboul-Hosn et al. or Weinstein.

Aboul-Hosn et al. or Weinstein disclose the claimed invention except for wherein the third slit extends from a position between a circumferential edge of said gland and the first slit to a position between an opposite circumferential edge of said gland and the second slit without extending to either of said circumferential edge and said opposite circumferential edge.

At the time of the invention it would have been obvious for one of ordinary skill in the art to modify the teachings of Aboul-Hosn et al. or Weinstein because of the lack of criticality and thus would be an obvious matter of design choice to one skilled in the art through routine experimentation. Therefore one of ordinary skill in the art would be able to modify the apparatus as taught by Aboul-Hosn et al. or Weinstein to include the third slit extending past the first and second slits but not touch the circumferential edges of the gland, since applicant failed to provide any unexpected results from this feature, thus it appears that the invention would perform equally well as a valve regardless of the length of the third slit, hence the length of the third slit could be modified by routine experimentation to change the length of the third slit.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F. DeSanto whose telephone number is 571-272-4957. The examiner can normally be reached on Monday-Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick LUCCHESI can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Matthew DeSanto  
Art Unit 3763  
March 29, 2007